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10/541,357	01/23/2006	Dominic Hyde	1503-1060	1118

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EXAMINER
LABBEES, EDNY

ART UNIT	PAPER NUMBER
2612	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/541,357	HYDE, DOMINIC	
	Examiner	Art Unit	
	EDNY LABBEES	2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 February 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *15-28* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *15-28* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *06 July 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Status Of Claims

1. In the response filed 2/21/2008, no new claims has been added or canceled. Therefore, claims 15-28 are currently pending in the application.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 15, 19-21 and 26-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Forster (US 6,281,797).

Regarding Claim 15, Forster discloses *Method And Apparatus For Detecting A Container Proximate To A Transportation Vessel Hold* that has the following claimed limitations:

Claimed method for operating a tracking device operatively connected to a container is met by the tracking device (100) associated with a container (10) wherein the tracking device (100) may be placed internally within the container, or the tracking

device (100) may be positioned on an outer surface of the container (10) (See Figs. 1 and 2, Col. 5 lns 29-41); claimed remote communication device is met by remote communication device (112) (See Col. 6 lns 14-15); claimed performing a positioning information obtaining procedure concerning said container is met by the tracking device (100) that also includes a positioning system (118a); claimed sensing whether said tracking device is in proximity to an aircraft is met the system of Forster where tracking device receives sensor information to sense whether the cargo container is in proximity of the aircraft (See abstract); claimed step of sensing comprises the stop of detecting electromagnetic fields emitted by the aircraft is met by the system of Forster where the tracking device (100) may contain either a signal sensor (118,120) or multiple sensors (118, 120) wherein the sensor can include a frequency sensor (118c) used to determine if the container (10) is in an aircraft (50) by detecting frequencies emitted by the aircraft (50) (See Fig., see Col. 4 lns 5-15, Col. 10 lns 34-42); for the limitation of "disabling emission of radio frequency signals from said remote communication device if proximity to an aircraft is indicated in the step of sensing and re-enabling emission of radio frequency signals from said aircraft is indicated in said step of sensing ***simultaneously*** as said step of performing a positioning information obtaining procedure is successful", examiner interprets the aforementioned limitation to be re-initiating emission of radio frequency signals under 2 conditions. 1) When it's not receiving RF transmission from the aircraft and 2) When the GPS is successfully able to obtain information regarding the container. Forster discloses a system where an operation starts and positioning information is received by the positioning system (118a) and is communicated through

the remote communication device (112) to a remote site (130) to allow tracking of the container (10). Information from the sensor(s) 118, 120 are passed through the input/output interface (106) to the control system (101) of the tracking device (100). The control system (101) determines, based on the information from the sensors (118, 120), whether the container (10) is in the aircraft (50) and/or its cargo hold. if the control system (101) determines that the container (10) is not in the aircraft (50) and/or its cargo hold, the process returns to the beginning and repeated. If the control system (101) determines that the container (10) is in the aircraft (50) and/or its cargo hold, the control system (101) performs a deactivation and reactivation procedure (See Col. 7 lns 35-60). The deactivation process begins with the remote communication device (112) that transmits positioning information regarding the location of the container (10) to the remote site (130) is deactivated due to proximity to the aircraft. When the tracking device is outside of aircraft again, the tracking device is re-enabled and positioning information is received successfully again by the GPS receiver (118a), to resume the transmission of the positioning information concerning the location of the container (10) to the remote site (130) (See Fig. 5, Fig. 6 and Col. 8 lns 60 to Col. 9 lns 2). The combination of the 2 requirements of 1) tracking device (100) is outside the aircraft and 2) GPS positioning signal is successful to resume transmission of the location signal by remote communication device constitutes the claimed “Simultaneous" limitation. In addition, Forster discloses other options re-enablement of the signal based on timer or itinerary or GPS availability (See Col. 8 lns 4-59) that are additional options/embodiments of the system and are not relied upon for the rejection to claim 1.

Regarding Claim 19, Forster discloses all of the claimed limitations: Claimed performing a positioning information obtaining procedure in turn comprises the step of determining a GPS position is met by the system of Forster where the tracking device (100) also includes a positioning system (118a), also referred to as a global positioning system (GPS) receiver (118a) (see Col. 5 lns 66-67 and Col. 6 lns 1-7).

Regarding Claim 20, Forster discloses all of the claimed limitations: Claimed steps of detecting in turn comprises the step of detecting electromagnetic field frequencies in the range of 400 Hz is met by the system of Forster where the frequency detector (118c) detects a signal in the range of 400 Hz (see Col. 10 lns 43-52).

Regarding Claim 21, the claim is interpreted and rejected as claim 15 stated above.

Regarding Claim 26, the claim is interpreted and rejected as claim 19 stated above.

Regarding Claim 27, the claim is interpreted and rejected as claim 20 stated above.

Regarding Claim 28, the claim is interpreted and rejected as claims 15 and 21 stated above.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 16, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Forster et al.

Regarding Claim 16, Forster discloses a system wherein the control system (101) determines if the container (10) is outside of the aircraft by checking the status of the sensor[s] (118,120) until the container (10) is actually outside the aircraft (50) at which time the tracking device ***reactivates*** previously deactivated systems in the tracking device (100), including remote communications device. However, Forster does not specifically disclose a system to measure time based on how long the container is outside the aircraft. Forster does not also disclose a system to reactivate the tracking device if the time outside the aircraft exceeds a predetermined time value. However, Forster do disclose as an optional embodiment to determine if the tracking device (100) is to be disabled for a specified ***period of time.*** If yes, the control system (101) reads the specified period of time from the memory (104) and programs the timer circuit (108). The control system (101) waits until the timer circuit (108) indicates the specified time

has lapsed before the tracking device (100) reactivates previously deactivated systems in the tracking device (100) including the remote communication device (112). Although the embodiment does not specifically meet the claimed limitation, the teaching of providing a timer circuit can be applicable to the embodiment described above in the rejection to claim 15; wherein the timer circuit can be programmed to perform a function, such as determining if the container is outside the aircraft for a predetermined period of time and reactivating the tracking device when the predetermined period of time has been exceeded. Therefore, it would have been obvious to one of ordinary skill in the art to readily recognize to provide a timer circuit to perform the functionality described above for the advantage of the system being more efficient in preventing any potential interference with the transportation vessel systems.

Regarding Claims 22 and 23, the claim is interpreted and rejected as claim 16 stated above.

Allowable Subject Matter

6. Claims 17 and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Prior art fails to show a method for operating a tracking device operatively connected to a container, having remote communication and performing positioning information, detecting electromagnetic fields emitted by an aircraft; disabling emission radio frequency signals

and re-enabling emission of said signals if lack of proximity to an aircraft is indicated and performing a positioning information obtaining procedure is successful in conjunction with determining if a predetermined value is larger than a maximum flight time from a globally most remote flight position. Subsequently, claims 18 and 25 depends on claim 17 and 24 respectively and therefore are allowable.

Response to Arguments

7. Applicant's arguments, see pages 2-11, filed 2/21/2008, with respect to the rejection(s) of claim(s) 15-28 under 35 U.S.C 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Forster et al. (US 6,281,797). As indicated above in the rejection made to the claims, Forster discloses a tracking device (100) associated with a container for determining its geographic position during the shipping process. In the previous action, Examiner did not realize there are several options with regards to the deactivation/reactivation process. The options of reactivation can be based on timer or itinerary or GPS availability (See Col. 8 lns 4-59). However, the option that meets the claimed limitation is when the control system (101) determines if the container is outside of the aircraft by checking the status of the sensors until the container is actually outside the aircraft at which time the tracking device reactivates previously deactivated systems in the tracking device, including the remote communication device.

Furthermore, Although the system of Forster does not specifically state the term "simultaneously", it is interpreted from the specification that the process of "re-enabling emission of radio frequency signals from the said remote communication if lack of proximity to an aircraft is indicated in said step of sensing simultaneously as said step of performing a positioning information obtaining procedure is successful." Functions as a AND function, wherein an in order for an output to exist, two inputs (A) and (B) must be present. So in order for the reactivation to occur (the output), the container is not in proximity of the aircraft (A) and the GPS system locates the container (B).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EDNY LABBEES whose telephone number is (571)272-2793. The examiner can normally be reached on M-F: 7:00 - 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Hofsass can be reached on (571) 272-2981. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Edny Labbees
4/29/2008

/Jeff Hofsass/

Supervisory Patent Examiner, Art Unit 2612